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TAGS: ASCH PREL PGOV TS
SUBJECT: GOT QUESTIONS STATUS OF AMERICAN COMMUNITY SCHOOL

REF: TUNIS 1111

Classified By: Ambassador Robert F. Godec, reason 1.4(B)
and (d)

¶1. (SBU) Summary: The MFA held a surprise meeting on October 30 to review the status of the American Community School of Tunis (ACST). In attendance were senior school and Embassy officials. The Ministry wanted clarification for the basis of the school's existence in Tunis since 1959 since it did not fit under any current law. A Ministry of Finance official stated that the school should be paying taxes on its "results" while declining to answer questions on the applicability to non-profit organizations. He asked questions about required financial reports he said were missing and alleged that payroll tax receipts were unusually low. The Ministry of Education representative stated that unless there is a bilateral agreement, the school is subject to Tunisian law, without explaining the ramifications of his statement. A 1963 agreement which has been the de facto mechanism for the school's benefits does not in fact apply the GOT officials said. Documents that partially address the school's status, including a MFA diplomatic note from late 1983 that addresses the tax free status of the school's personnel, were reviewed. The meeting closed with the Chief of Protocol stating that a period of reflection should be pursued by both sides to explore the status question. The Ministry of Finance sent two officials the following day to the school to announce an audit of the school's payroll for the last ten years. The Embassy is seeking to have that audit delayed on the grounds that the status issue has only just been raised. End Summary.

American School Officials Convoked to the MFA

¶2. (SBU) Moncef Hajeri, Chief of Protocol at the Ministry of Foreign Affairs convoked Patrick Meyer, the Director of ACST, October 30 for a review of the school's legal and financial status. A diplomatic note was sent mid-morning convoking Meyer the same afternoon. At the meeting, Hajeri was accompanied by Lohai Samir (phonetic), Director General of Taxation in the Ministry of Finance, Mohamed Zoghiami (phonetic), Director General for Private Instruction in the Ministry of Education, MFA Director General for Legal Affairs Mondher Dheraieff, and the MFA Director for the Americas, Ms. Holla Bachtobji. Meyer was accompanied by Matthew Long, Chairman of the school's Board of Governors (and Embassy IO), Faouzi Ben Sedrine, ACST Business Manager, and the DCM.

¶3. (SBU) The unusual meeting (neither Meyer nor Ben Sedrine had ever been to the MFA) was opened by Hajeri, who said that the MFA and he personally had been reviewing the status of various institutions in Tunisia and that they were requesting any documents the school had permitting it to provide education in Tunisia; its overall legal and fiscal status; the status of its teachers and other personnel. The purpose was neither a witch hunt nor intended to put into question the existence of the school. Hajeri noted that many privileges accorded to the school were based on a cultural

exchange agreement between the two countries from 1963 but that the school could not be covered in such an agreement since it was established in 1959. Furthermore, the agreement made no specific reference to the school.

¶4. (SBU) When asked why the sudden focus on ACST after 49 years of operation, Hajeri responded that the fact that there had been no questions in the past did not mean there could not be now. Hajeri claimed that the GOT was trying to model its practices after more advanced nations. When asked whether the goal was to clarify existing practices and find a legal basis to continue them or to eliminate the benefits the school currently enjoys, Hajeri dodged the question by replying that governments only change things slowly.

Ministry of Finance Alleges Improprieties

¶5. (SBU) At this point, Samir began to allege improprieties by the school. He said that the school has never paid taxes on its activities and that it should pay taxes on its "results". School officials noted that the organization is a non-profit one and asked whether non-profit organizations were taxed. Samir replied that "results" are taxed. Asked whether there was a difference between a result and a profit, he replied that companies are subject to taxation. Hajeri interjected that there is a difference between a profit and result but Samir gave no indication of agreement. Samir further alleged that the total amount of withholding from salaries was insufficient compared to the payroll and that the school was failing to submit a required annual report on staff earnings. Since the finance manager was not present, school representatives noted the questions, but were unable to answer in detail.

¶6. (SBU) Zoghiami said that Tunisian law had two categories for schools that do not teach the Tunisian curriculum. Either the school is covered by a bilateral agreement and subject to its terms or it is subject to Tunisian law. He said that there was no bilateral agreement covering ACST and that the 1963 agreement did not cover the school. He gave no indication as to the practical effect on the school that there was no bilateral agreement. Dheraief followed by asking a series of questions about the school's structure, relationship to the Department of State and accreditation, which were factually answered.

Both Sides Should Reflect on Status Issue

¶7. (SBU) Hajeri closed the meeting by saying there should be a period of reflection by both sides and see what new information might be brought forward on the status issue. In answer to a question, he said that creating some form of a bilateral agreement could be a possible solution to placing the school in a proper legal framework.

Ministry of Finance Announces Audit the Next Day

¶8. (SBU) Apparently not in agreement with Hajeri's closing comment, on October 31 the Ministry of Finance sent two officials to the school to deliver a letter announcing an audit on November 17 of the school's payroll for the last ten years. The school has referred the letter to its attorney.

Ministry of Finance Reportedly the Protagonist

¶9. (C) In a private discussion with the DCM, Hajeri said that the Ministry of Finance was behind the current push on status and that he did not know their motivation. He claimed that a 1983 diplomatic note giving school employees tax exempt status should be sufficient with respect to tax issues, adding that the school had too many longstanding benefits for them all to be taken away. The DCM followed up as well on the recent removal of police security from ACST. Hajeri had nothing new to add to the Foreign Minister's

commitment to raise it with the Minister of the Interior
(reftel).

Next Steps

¶110. (SBU) We are now engaged in further research of the documents we have available on the history of ACST's presence and the benefits it currently receives. We have record of an attempt to create a formal agreement on the school's status dating from late 2001, to which the GOT did not reply. We believe it may be the appropriate time to resurrect that approach. We are working with the Office of Overseas Schools and L on the matter. In the meantime, we have asked the MFA to slow down the Ministry of Finance on the grounds that the discussion on status has just begun, and that not enough time has been given to address the question.

GODEC